

**IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS**

<p>COMMODITY FUTURES TRADING COMMISSION, <i>et al.</i>,</p> <p>Plaintiffs,</p> <p>v.</p> <p>TMTE, INC. a/k/a METALS.COM, <i>et al.</i>,</p> <p>Defendants,</p> <p>and</p> <p>TOWER EQUITY, LLC,</p> <p>Relief Defendant.</p>	<p>Case No. 3:20-CV-02910-X</p> <p>JOINT MOTION FOR ENTRY OF CONSENT ORDER OF PERMANENT INJUNCTION AND OTHER STATUTORY AND EQUITABLE RELIEF AGAINST DEFENDANTS TMTE, INC. a/k/a METALS.COM, CHASE METALS, INC., CHASE METALS, LLC, BARRICK CAPITAL, INC., AND RELIEF DEFENDANT TOWER EQUITY, LLC</p>
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Plaintiffs Commodity Futures Trading Commission (“CFTC”), Alabama Securities Commission, State of Alaska, California Commissioner of Business Oversight (now known as the Commissioner of Financial Protection & Innovation), Colorado Securities Commissioner, State of Delaware, State of Florida, Office of the Attorney General and State of Florida, Office of Financial Regulation, Office of the Georgia Secretary of State, State of Hawaii, Securities Enforcement Branch, Idaho Department of Finance, Indiana Securities Commissioner, Iowa Insurance Division, Office of the Kansas Securities Commissioner, Kentucky Department of Financial Institutions, Maine Securities Administrator, State of Maryland Ex Rel the Maryland Securities Commissioner, Attorney General Dana Nessel on Behalf of the People of Michigan, Mississippi Secretary of State, Nebraska Department of Banking & Finance, Office of the Nevada Secretary of State, New Mexico Securities Division, the People of the State of New York by Letitia James, Attorney General of the State of New York, Oklahoma Department of

Securities, State of South Carolina, by and through Alan Wilson, South Carolina Attorney General, and Mark Hammond, South Carolina Secretary of State, South Dakota Department of Labor & Regulation, Division of Insurance, Commissioner of the Tennessee Department of Commerce and Insurance, State of Texas, Washington State Department of Financial Institutions, and West Virginia Securities Commission (collectively, the “States”),¹ together with Defendants TMTE, Inc. a/k/a Metals.com, Chase Metals, Inc. Chase Metals LLC, and Barrick Capital Inc., and Relief Defendants Tower Equity, LLC (collectively, the “Settling Defendants”), hereby jointly move the Court to enter the Proposed Consent Order of Permanent Injunction and Other Statutory and Equitable Relief against the Settling Defendants. In support of this Motion, the Plaintiffs and Settling Defendants state as follows:

1. Plaintiffs and the Settling Defendants, each through Kelly Crawford, solely in his capacity as the court-appointed Receiver in this matter (“Receiver”), acting on behalf of such entities, and based upon the information provided to the Receiver and the Receiver’s investigation, have negotiated in good faith and reached a settlement agreement as to liability.

2. The terms of that partial settlement agreement are set forth in the proposed Consent Order, which is attached to the Joint Motion as an exhibit.

3. The State Bar Orders referenced in paragraphs 145 and 146 of the proposed Consent Order are also attached to the Joint Motion and proposed Consent Order (Attachment 1).

4. Pursuant to the terms of the proposed Consent Order, the Settling Defendants agree to the findings of fact and conclusions of law set forth therein and consent to entry of

¹ Except for Arizona and Wisconsin, all Plaintiff States are parties to this Consent Order. Arizona and Wisconsin may seek to join as parties to the Consent Order with supplemental filings once they each obtain authorization.

certain injunctive relief. If approved and adopted by the Court, the proposed Consent Order resolves the liability aspects of Plaintiffs' case against the Settling Defendants.

5. If approved and adopted by the Court, the proposed Consent Order requires the Settling Defendants to pay restitution, disgorgement and civil monetary penalties in accordance with paragraph 153 of the proposed Consent Order:

The Court shall determine the amounts of restitution, disgorgement and civil monetary penalty and the procedures for payment and distribution of these monetary sanctions by further order upon: motion of the parties submitting to the Court a proposed consent order setting out their agreement on the amounts of restitution, disgorgement, and civil monetary penalty to be paid by Defendants Metals and Barrick and Relief Defendant Tower Equity in this matter, subsequent motion by the CFTC and the States, and/or hearing before this Court.

6. The undersigned counsel for the CFTC has conferred with the court-appointed Receiver in this matter, acting on behalf of the Settling Defendants, who has authorized Plaintiffs to represent to the Court that the Settling Defendants join in the filing of this Motion.

Accordingly, Plaintiffs and Settling Defendants respectfully request that the Court approve and enter the proposed Consent Order, attached hereto as an exhibit to this Joint Motion and signed by the Parties thereto.

Dated: December 31, 2024

Respectfully submitted,

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CERTIFICATE OF CONFERENCE

The undersigned hereby certifies that he conferred with Christopher Davis, counsel for Defendants Lucas Asher and Simon Batashvili by email, and by telephone on December 30, 2024, and again on December 31, 2024. Defendants' counsel advised that he was unable to reach his clients to discuss the proposed Consent Order between the Plaintiffs and the other Defendants, and that as a result he is unable to advise what his clients' position is regarding the relief requested in the Motion.

CERTIFICATE OF SERVICE

On December 31, 2024, I electronically filed the foregoing Joint Motion for Entry of Consent Order of Permanent Injunction and Other Statutory and Equitable Relief Against Defendants TMTE, Inc. a/k/a Metals.com, Chase Metals, Inc., Chase Metals, LLC, Barrick Capital, Inc., and Relief Defendant Tower Equity, LLC, along with the Proposed Consent Order and Attachment 1, in the above-captioned matter using the CM/ECF system, and I am relying upon the transmission of the Clerk's Notice of Electronic Filing for service upon all parties in this litigation.

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